STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission On Its Own Motion	))	
	)	ICC Docket No. 15-0512
Amendment of 83Ill. Adm. Code 412 and 83Ill. Adm. Code 453	))	

VERIFIED INITIAL COMMENTS OF THE PEOPLE OF THE STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS
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November 5, 2015

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Pursuant to the schedule established by the Administrative Law Judge at the August 6, 2015 status hearing, the People of the State of Illinois, by and through Lisa Madigan, Attorney General of the State of Illinois ("AG" or "the People"), pursuant to the schedule established at the September 28, 2015 status hearing, hereby file their Verified Initial Comments in the above-captioned matter. The AG's Verified Initial Comments recommends certain modifications to the Illinois Commerce Commission's Staff's ("Staff") Microsoft Word version of its draft rule ("Staff Draft Rule") submitted to the parties in an e-mail dated October 23, 2015.

I. History of Proceeding

This proceeding has its origins in a Notice of Inquiry ("NOI") proceeding initiated in 2014. In its order initiating that proceeding (14-NOI-01) proceeding, the Illinois Commerce Commission ("Commission" or "ICC") asked interested parties to comment on certain issues involving retail electric suppliers' ("RES") service to residential customers. In particular, the Commission identified six categories affecting RES residential service and asked interested persons to respond to several questions the ICC posed regarding the six categories. Docket No. 14-NOI-01, ICC Initiating Order at 2-4 (Sep. 30, 2014). Among the categories included in the

ICC's NOI Initiating Order were the disclosure of variable rates, the marketing of so-called "green" products, and price-to-compare information.

Following the Commission's Initiating Order, Staff conducted three workshops and solicited three rounds of comments from interested parties.[1] On August 24, 2015, Staff issued its Staff Report on the Notice of Inquiry 14-NOI-01 ("Staff Report"). The Staff Report summarizes the history of the proceeding as well as recommends that the Commission amend Part 412 of its rules in order to "supplement the existing requirements for [RES] … marketing to residential and small commercial customers." Staff Report at 1. The Staff Report attaches a draft initiating order that it recommended the Commission issue. *Id*. The report also recommends that the Commission issue the draft initiating order directing Staff to file a draft rule 30 days after the initiating order was entered. *Id*. at 1. Finally, the Staff report identifies numerous subjects, including variable rates and green power, that should be amended as part of the recommended rulemaking proceeding. *Id*. at 2-7.

II. Context for the AG's Proposed Modifications to Staff's Draft Rule

As the Commission noted in its order initiating the NOI proceeding, RES's began marketing retail electric service to residential customers in 2011. NOI Initiating Order at 1. Since that time, there is abundant evidence that certain RES's have engaged in sales practices that are, at a minimum, confusing for consumers. Because electricity was provided by monopoly vertically integrated utilities for almost a century, Illinois residents (and residents of other states) did not have to give any thought to what entity provided their electric services. Under the vertically integrated model, customers paid their electric bills, which included both delivery service and generation service charges. There was no need to make that distinction because

[1] The three rounds of comments as well as other relevant materials can be found at http://www.icc.illinois.gov/ormd/NOI2014.aspx

customers paid their electric bill – a bill that included delivery services and generation services provided by one company.

The recent advent of competition fundamentally changed that paradigm. Now, as a result of electric industry restructuring, Illinois residents purchase their delivery services from their monopoly utility and have the choice of purchasing generation service from their incumbent utility or an alternative electric service provider. While seemingly simple, it is readily apparent that the vast majority of Illinois residential consumers are not aware of or do not understand the implications of electricity restructuring or how restructuring works.

Certain RES's have taken advantage of residential customers' confusion and lack of knowledge and understanding of electricity restructuring. Such questionable tactics have taken many forms, including allegations that door-to-door salespersons signing up customers for a RES product while claiming they are a representative of the local electric utility and slamming. Moreover, for the most part, it seems that RES's have enrolled customers in programs that increase customers' electric bills. This certainly could not have been the General Assembly's intent when it amended the Public Utilities Act to allow for electricity competition.

The AG admits that the statements above may not apply to all RES's and there likely are companies that are providing electric service at competitive prices and that provide value to their customers. However, such RES offers seem to be the exception, not the rule. It is with this backdrop that the AG submits its Initial Comments and its proposed modifications to Staff's Draft Rule.

For these reasons, the AG supports many of the proposed changes that are included in the draft rule your office submitted to interested parties on September 14, 2015. Your suggested

updates to the rule, if adopted, could hopefully reduce customer confusion when faced with a choice they may not fully understand.

III. The AG's Proposed Modifications to Staff's Draft Rule

As discussed above, the AG believes its proposed additions to Staff's Draft Rule are necessary to allow Illinois residents the information necessary to permit them to make informed decisions in an area they may not fully understand. Also, please be advised that the vast majority of the AG's recommended changes are based on rules that other states have adopted to regulate their RES-equivalents. Many of the members of the Retail Energy Suppliers Association ("RESA") and the Illinois Competitive Energy Association ("ICEA") conduct business in these other states. The AG assumes that RES's that conduct business in these other states comply with their regulations. Seemingly, there is no reason why such RES's would object to complying with the same rules if they are added to Part 412.

The AG supports many of the proposed changes included in Staff's Draft Rule. Staff's updates to the rule, if adopted, could hopefully reduce customer confusion when faced with a choice they may not fully understand. In addition to the changes to the rule Staff has proposed, the AG recommends that additional changes be made to Part 412. The AG's suggested amendments to the rule are included in Appendix A, which is attached hereto. The AG's recommended amendments are shown in track changes.

The AG's proposed modifications are organized as follows. The AG's proposed changes to sections included in Staff's Draft Rule are addressed first. Next, the AG discusses new sections it proposes be added to Staff's Draft Rule. The order in which the AG's proposed modifications are discussed is not intended to indicate the relative importance of the suggested changes. Rather, the sections the AG recommends be added to Staff's Draft Rule would require

that the section numbering change. To minimize confusion, the recommended additions are discussed separately.

A. AG's Proposed Modifications to Staff's Draft Rule

Section 412.10 – Definitions – The definition of "Inbound Enrollment Call" should be modified to include the phrase "or change provision of their" in the definition. Such a change is necessary to ensure that the record keeping requirements Staff's proposed Section 412.140(c) apply as well to inbound calls made by current customers persons seeking to change provision of their service.

Section 412.110 should also be modified to include a definition of "renewable energy credits" or "RECs." By necessity, RES's that market "green energy" or "green power" use RECs to claim that their power comes from renewable resources. The AG has received complaints regarding at least one RES's marketing materials regarding "green power" improperly intimates that the power the RES provides comes directly from renewable resources such as wind or solar power. Unless the renewable resources are connected directly to a customer's home, such claims are impossible as a matter of physics.

The AG's proposed addition of a definition of "RECs" is consistent with the People's suggested changes to Staff's Section 412.190 – Renewable Energy Product Descriptions. In that section, the AG recommends that RES's marketing green power must disclose that the green component of their product is comprised of RECs.

Section 412.115 Uniform Disclosure Statement – Staff's proposed Section 412.115 should be modified to add the following subsection:

> (YY) For a variable rate product, the UDS shall state that the current rate per kWh price and a one-year price history, or history for the life of the product, if it has been offered less than one year, is available

on the RES's website and at a toll-free number. A RES shall not rename a product in order to avoid disclosure of price history.

In the Commission's Order initiating the NOI, variable rates was the first topic the Commission asked be addressed. In addition, the Commission posed more questions regarding variable rates than any other topic it asked be investigated. NOI Initiating Order at 3. The AG's proposed additional subsection addresses the Commission's clear concerns regarding variable rates by requiring that RES's provide important information to potential customers about part performance of variable-rate products. Such information would be helpful to customers in understanding the potential value – or lack of value – in specific variable-rate products. Moreover, the suggested added subsection is taken almost verbatim from a very similar Texas regulation. Tex. Admin. Code, Chapt. 25, SubChapt. R, §25.475. According to their websites, various members of RESA and ICEA provide service in Texas.

Section 412.120 In-Person Solicitation – Subsection (f) of Staff's proposed Section 412.120 should be modified to add the following sentience: "The RES Agent shall also offer a business card or other material that lists the agent's name, identification number (if applicable) and title, the RES's name and contact information, including telephone number." As Staff noted in its Summary of Changes Made to Existing Rule by Staff Proposed Rule ("Staff Summary"), "In-person sales may be the most difficult form of sales to monitor for regulatory compliance and quality assurance purposes. Such monitoring is, however required to prevent abuses such as misrepresentation and slamming." Staff Summary at 6. The AG agrees with Staff's assessment. The proposed addition to subsection (f) would aid regulatory enforcement by requiring in-person salespeople to leave with potential customers a document that provides their identity as well as the entity for which they are working.

Section 412.130 Telemarketing – Subsection (c) of Staff's proposed Section 412.130 should be modified to require telemarketers to include any information required in the Uniform Disclosure Statement ("UDS") required by proposed Section 412.115 that is not included in the "disclosures required by subsections (a) and (c) through (m) of Section 412.110." Persons solicited by telemarketers should not be denied information that is required to be made available to other persons who are solicited by other means.

In addition, Staff's proposed Section 412.130 should be modified to add the following subsection:

> (XX) A RES shall not engage in telemarketing between the hours of 9:00 P.M. and 9:00 A.M., Central Standard Time.

This proposed subsection is a common-sense limit on when RES's may engage in telemarketing. This proposed section is taken from New Jersey's regulations concerning that state's RES-equivalents. NJ Admin. Code §14:4-7.4. According to their websites, various members of RESA and ICEA provide service in New Jersey.

Section 412.140 Inbound Enrollment Calls – Subsection (c) of Staff's proposed Section 412.140 should be modified to include the following sentence: "Inbound enrollment calls that do not lead to a completed enrollment must be recorded and retained for a minimum of six months." This sentence is taken from subsection (d) of Staff's proposed Section 412.130 and establishes consistent record retention requirements for both telemarketing calls and inbound enrollment calls.

Subsection (d) of Staff's proposed Section 412.140 should be modified to require telemarketers to include any information required in the Uniform Disclosure Statement ("UDS") required by proposed Section 412.115 that is not included in the "disclosures required by

subsections (a) and (c) through (m) of Section 412.110." This proposed addition is consistent with the AG's proposed addition to subsection (c) of Staff's proposed Section 412.130. Persons making inbound enrollment calls should not be denied information that is required to be made available to other persons who are solicited by other means.

Section 412.150 Direct Mail – Subsection (b) of Staff's proposed Section 412.150 should be modified to require that the UDS to be included in direct mail solicitations be provided on a separate page from the other marketing materials. Requiring that the UDS be provided on a separate page would provide direct mail recipients a separate easy-to-reference guide for evaluating RES solicitations.

Section 412.170 Rate Notice to Customers – The first sentence of subsection (b) of Staff's proposed Section 412.170 states "If the RES uses the utility's single bill pursuant to Section 16-118(d) of the Act to bill its residential variable rate customers, the RES shall use the allotted space on the bill to disclose the customer's variable rate that is in effect at the time the bill is received by the customer." According to Staff's Summary, this sentence is inconsistent with the purpose of this addition to Part 412. According to Staff's Summary, subsection (b) is intended to "require[] the RES to provide the upcoming variable rate information on the customer's monthly bill." Staff Summary at 8. Yet, as written, the first section of subsection (b) requires RES's to provide rate information regarding the "rate that is in effect at the time the bill is received by the customer." In other words, Staff's draft subsection (b) does not require RES's provide "upcoming variable rate information." The first sentence of subsection (b) should be modified such that it is consistent with Staff's stated intent.

Subsection (d) of Staff's proposed Section 412.170 requires RES's to provide a separate written notification to customers whose variable rates will increase "by more than 30% from one

monthly billing period to the next …." The AG agrees with Staff's concept, but proposes that the trigger for written notification be 20%, not 30%. A one-month 20% increase is sufficiently significant that customers should receive separate written notification of the impending increase in rates.

Section 412.175 Training of RES Agents – As discussed above, agents of various RES's have engaged in litany of questionable sales tactics since the advent of residential and small commercial customer retail competition. Given that context, the AG recommends that several subsections be added to Staff's proposed Section 412.175. As Staff acknowledged in the summary of its proposed rule, regulatory compliance for in-person solicitations is difficult to monitor. Staff Summary at 6. The AG believes that regulatory compliance for in-person sales and other forms of marketing would be more robust if the rules for RES agent training are strengthened. For that reason, the AG recommends that the following subsections be added to Staff's draft Section 412.175. The recommended additional subsections are:

d) No RES agent shall make a record of a customer's account number unless the customer has agreed to enroll with the RES.

e) A RES shall document the training of its agents and maintain a record of the training for three years from the date the training was completed. Upon request by the Commission or Commission Staff, a RES shall provide training materials and training records within seven business days.

f) When a RES contracts with an independent contractor or vendor to perform marketing or sales activities on the RES's behalf, the RES shall confirm that the contractor or vendor has provided training approved by the RES and in accordance with this Section.

g) The RES shall sufficiently monitor telephonic and in-person marketing and sales calls to ensure that RES agents are providing accurate and complete information and complying with applicable laws and regulations.

h) No RES shall provide to any RES agents any commission, bonus, or other incentive payment based directly or indirectly on success in securing customer enrollments.

AG proposed subsection (d) is straightforward. It would require that RES agents be trained that they are prohibited from making a record of a potential customer's account number if that potential customer does not enroll for service with that RES. Such a prohibition could minimize slamming.

Proposed subsections (e), (f), (g) are common sense record keeping requirements that should be adopted. They are taken from Pennsylvania's administrative rules for that state's RES-equivalents. PA Admin. Code Title 52, §111.5. According to their websites, various members of RESA and ICEA provide service in Pennsylvania.

AG proposed subsection (h) is designed to eliminate remove an incentive for RES's agents to make false statements and misrepresentations in order to increase their salaries. Given the difficulty monitoring RES sales activities – especially in-person sales - breaking the link between sales and salary levels is should reduce the use of questionable tactics to increase sales.

Besides the AG's recommended additional subsections, the AG also proses Staff's subsection (a) be modified. Subsection (a) of Staff's proposed Section 412.175 requires RES's, when training their agents, to ensure that they are knowledgeable about "other rules, the [Public Utilities] Act and the Consumer Fraud and Deceptive Business Practices Act." The AG recommends that RES's also require that agents be knowledgeable about and federal laws and regulations "pertaining to pertaining to the marketing and sales of power and energy service."

Section 412.190 Renewable Energy Product Descriptions – Staff's proposed Section 412.190 is a vast improvement over the current version of Section 412.190. With that said, Staff's proposed version is insufficient to address the confusion customers have regarding renewable energy products. The AG recommends that Staff's proposed Section 412.190 be deleted and the AG's recommended version be adopted in its stead.

In its Order initiating the NOI docket, the Commission identified marketing of so-called "green" products as one of the main areas in which it sought comment. NOI Initiating Order at 3. The Commission's concerns are well-placed. Providing energy sourced from renewable resources, while seemingly simple, is a confusing topic. As a matter of physics, unless a customer's residence is directly connected to a wind farm or solar panels, RES's (or any other entity) cannot truthfully claim that they are providing electricity generated from renewable resources. Instead, the "green" component of "green" power almost assuredly comes from the purchase of RECs.

The AG is familiar with at least one REC selling "green" power in Illinois whose marketing materials intimated that the power the REC was selling came directly from renewable resources. Such a claim is demonstrably false.

Staff's proposed Section 312.190 makes no attempt to reduce potential customer confusion. It makes no mention of RECs. It does not require RESs marketing "green" products to verify their purchase of RECs and that their RECs have been certified by an independent third party and that their RECs have not been sold more than once.

The AG's proposed Section 412.190 remedies these shortcomings. It requires REC's marketing "green" products to provide information to potential customers regarding the actual source of the "green" component of the power they sell. The AG concedes that RECs are not a simple concept. However, it is better that potential customers be provided information about the actual source of "green" power as opposed to being provided a simplified version that does not reflect reality.

Section 412.210 Rescission of Sales Contract – The AG proposes that Staff's proposed Section 412.210 be modified in three ways. First, the AG recommends that the phrase "by U.S.

mail" be inserted in the second sentence of subsection (a). This modification clarifies the means by which a customer's utility will provide notice of the scheduled enrollment to a RES provider.

Second, the AG proposes that the following sentence be added to the end of subsection (a): "The written enrollment notice from the electric utility shall also provide information regarding options for the customer if the enrollment has been made in error or without the customer's consent, including contact information for the utility and for the Commission." This sentence is self-explanatory and provides customers whose service has been wrongly switched with important information about how to best handle what would likely be a confusing situation.

Finally, the AG recommends that the phrase "upon request by the customer, if the RES is unable to provide verifiable proof of authorization of enrollment" be added to the end of subsection (b). This revision permits customers to cancel RES service without any termination fees if the RES cannot prove that the customer authorized that her account be enrolled for RES service.

Section 412.230 Early Termination of Sales Contract – The AG Proposes two changes to Staff's proposed Section 412.230. First, the sentence "A customer relying on this provision to avoid an early termination fee shall be precluded from relying upon this provision for 12 months following the date the customer terminated his or her sales contract" should be deleted. Given some of the problematic tactics some RES's have used to enroll customers, it is unfair to prohibit a person to avoid paying termination fees if she is the victim of unfair sales tactics more than once in a 12-month-plus period.

Second, the following sentence should be added to Section 412.230: "If a customer has accepted service from a RES after solicitation by a door-to-door salesperson, there shall be no termination fees assessed if the customer terminates during the first six billing cycles." This

sentence is necessary given that many of the questionable sales ploys have involved door-to-door sales. And as Staff has said, such sales are difficult to monitor for regulatory compliance.

Sections 412.240, 412.250, 412.300, 412.310, and 412.320 – Staff's Draft Rule attached to its October 23, 2015 e-mail did not include Sections 412.240, 412.250, 412.30, 412.310, and 412.320. The AG assumes that these sections were intentionally not included in the draft rule because Staff proposes no changes to the existing version of those portions of Part 412. If this is in error, the AG proposes that the current version of those sections, as modified below and in Appendix A, be incorporated into the revised Part 412.

Section 412.240 Contract Renewal - The current version of Section 412.240 should be revised in two ways. First, in subsection (b)(6) the phrase "the facts in subsections (b)(2)-(5) herein in addition to" should be inserted into the second sentence. The phrase makes clear what information a RES must provide a customer regarding the end of a contract term.

Second, the sentence "Calls made pursuant to this Subsection shall also comply with the requirements of Section 412.130" should be added to subsection (b)(6) to ensure that calls made under this subsection are consistent with the telemarketing rules in Section 412.230.

Section 412.250 Assignment - The current version of Section 412.250 should be revised in several ways. First, a new subsection (c) should be added. The new subsection (c) would provide RES customers more information regarding the terms and reasons for the assignment of their contracts.

Second, current subsection (c) should be re-lettered to subsection (d). In addition, the new subsection (d) should be modified to make clear that any modification of an assigned contract (1) must be in writing and (2) the customer has received all contract disclosures required by Section 412.110.

Section 412.310 Required RES Information – The current version of Section 412.310 should be revised to require RES's to make an annual filing with the Commission's Consumer Services Division providing the information described in subsection (a)(1) through (4). Currently, the rule requires that RES's only have to provide such information prior to beginning marketing to residential and small commercial customers.

Section 412.320 Dispute Resolution – The current version of subsection (b) Section 412.320 should be revised to require RES's to document complains submitted by customers and as well as subsequent communications between the customer and the RES about the complaint. The subsection should also be modified to require RES's to maintain records of the costumer complaint documentation for two years and to produce such information upon request by the Commission or Commission Staff in seven business days.

The phrase "If a complainant is dissatisfied with the results of an RES' complaint investigation," should be deleted from subsection (c)(1)(A). RES's should be required to inform customers of their rights to file an informal complaint at the ICC regardless if the customer is dissatisfied with the RES's handling of a complaint.

B. AG's Proposed Added Sections to Staff's Draft Rule

As discussed above, besides the proposed changes to Staff's Draft Rule, the AG also recommends that several new sections be added to Part 412. Those proposed sections are discussed next.

Section 412.XXX General Disclosure Requirements – The current rule should be modified to add a section that explicitly states that RES's are required to provide customers sufficient information about their electric products to allow them to make informed decisions.

The new section would also require that all information provided to customers and potential customers "be clear and not misleading, fraudulent, unfair, deceptive, or anti-competitive.

Section 412.XXX Use of Utility Name or Logo Prohibited - Staff's Draft Rule recognizes the need for all RES's to disclose to customers, through its marketing materials or through solicitations in person, on the telephone, through the mail or on the internet, that they are not affiliated with a utility company. *See* Staff's Draft Rule for "Minimum Contract Terms and Conditions", Part 412.110(l); "Uniform Disclosure Statement," Part 412.115(b)(13); "In-Person Solicitation," Part 412.120(a) and (c); "Telemarketing," Part 412.130(a) "Direct Mail," Part 412.150(a); "Online Marketing," Part 412.160(a). The purpose of these provisions is to ensure that a RES or its agent communicates to the prospective customer that neither the RES nor the agent represents or acts on behalf of a utility company.

The advantage of claiming an affiliation with a regulated utility company has been recognized by at least one Illinois court. *Illinois Power Company v. Illinois Commerce Comm'n.*, 316 Ill.App. 3d 254, 260-61 (5th Dist. 2000). The *Illinois Power* court, in upholding the constitutionality of a Commission rule prohibiting the joint marketing or joint advertising of utility services with those of its affiliate in competition with other ARES, noted the Commission's observation that "…the danger of joint marketing was supported by a number witnesses who testified before the Commission and expressed concern that joint advertising and marketing between utilities and their affiliates would give customers the impression that their utility service would be better if they purchased it from the utility affiliates." *Id. at 259* The court applied a four-prong test to scrutinize the constitutionality of commercial speech regulation and concluded that the Commission's rule against joint marketing met those criteria. *Id*. at 259-

61. The court reasoned: "The order simply prevents utilities and their affiliated ARES from joining marketing efforts and thereby misleading customers." *Id.* at 261.

Staff's rule requiring RESs to disclose that they are not affiliated with a utility is arguably premised on the same assumption, and ostensibly serves to dissuade a prospective customer from associating the RES's services with those of the customer's delivery service utility and with its established reputation as a regulated service provider. The deficiency in the rules above-referenced is that they effectively allow RESs and their agents to make assertions of non-affiliation that permit direct mail materials to be addressed to "Commonwealth Edison Customer" or marketing materials proclaiming "we are an independent company working to help Edison customers" or "we partner with Edison," -- statements that necessarily utilize the very affiliation that the rule strives to avoid. Use of the utility name, even in the context of disavowing it, could distract or confuse customers.

Staff's Draft Rule in this regard could be made even more effective if a new section is added stating:

> No RES materials, including, but not limited to, direct mail or electronic marketing materials, shall display or utilize the name, logo, or any other identifying insignia, graphics or wording that has been used at any time to represent a public utility company or its services.

Section 412.XXX Supplier Liability for its Agent – Part 412 should be modified to stress clear that RES's are liable for the actions of its agents. The new section would also describe the penalties a RES may be subjected to for its agent's malfeasance.

Section 412.XXX Price Comparison Required – A new section requiring RES's to provide price comparisons to prospective customers should be added to Part 412. Price comparisons would provide prospective customers crucial information in determining whether a

RES offer was attractive. The AG's proposed language for this section is substantially similar to a provision New Jersey's regulations concerning that state's RES-equivalents. NJ Admin. Code §14:4-7.4(b)(c). According to their websites, various members of RESA and ICEA provide service in New Jersey.

Section 412.XXX Acceptance of Transferred Utility Calls Prohibited - It has come to the attention of the Attorney General's Office that customers who contact their utility company through an inbound telephone call in order to transfer gas utility service to a new address may be asked by the utility service representative if they wish to transfer their electric service as well, and wind up having their call transferred not to their existing electric utility company, but to an alternative retail electric supplier. Once transferred, a trained customer service representative working for the alternative provider will attempt to enroll the customer in what he or she believes is a utility budget plan or fixed bill plan but which in fact is higher priced service with an alternative provider. Customers later learn that what they thought was a "one-stop shopping" call to transfer all their utility service at the same time was in reality an opportunity to switch the customer's electric supply service from the utility to an alternative supplier.[2]

In order to prevent an avenue of marketing that enables unauthorized switching of retail power supply, the People recommend that Staff's Draft Rule include a prohibition on this practice. Utilities should not be using their customer service departments – paid for by utility ratepayers -- to "feed" customers to non-utility businesses. Customers who call their utility company in the midst of moving their residence or business deserve to have their transfer of service requests handled appropriately without being used as marketing targets.

[2] The scenario can work in the other direction as well, with electric utility customers' inbound phone calls to their utility re-routed to an alternative gas provider.

The People therefore recommend that the Staff Draft Rule include a new section, "Acceptance of Transferred Utility Calls Prohibited," which would read as follows:

> No RES may accept the transfer of an inbound call made by a customer to a utility company or an outbound call made by a utility company to a customer in order to solicit that customer's enrollment in, or change to, any RES services, regardless of the original nature of the call and regardless of which entity facilitates the transfer. No RES can make or receive payment for accepting the transfer of such calls.

Section 412.XXX Vagueness, Ambiguity, or Obscurity of Contract Terms Construed in Favor of the Customer – Finally, the AG proposes that a new section be added that ensures that if there is a dispute between a customer or a RES, any vagueness, ambiguity, or obscurity of contract terms be construed in favor of the customer. Such a provision is fair in that it is the RES, not the customer, which drafts the contract and associated documents. Moreover, this suggested rule is taken from a very similar Texas regulation. Tex. Admin. Code, Chapt. 25, SubChapt. R, §25.475(c)(2)(F). According to their websites, various members of RESA and ICEA provide service in Texas.

Wherefore, the People of the State of Illinois respectfully request that Staff's Draft Rule be modified as set forth in the attached Appendix A.

Respectfully submitted,

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By: ____/s/_____

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November 5, 2015